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EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 1st August, 1969:—

BILL No. XVIII OF 1969

*A Bill to amend the Presidential and Vice-Presidential Elections Act, 1952.*

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. This Act may be called the Presidential and Vice-Presidential Elections (Amendment) Act, 1969.

Short  
title.

31 of 1952

2. In section 5 of the Presidential and Vice-Presidential Elections Act, 1952 (hereinafter referred to as the Principal Act), to sub-section (2), the following proviso shall be added, namely:—

Amend-  
ment of  
section 5.

“Provided that in the case of a candidate for election to the office of President, the nomination paper shall also be subscribed by eight electors as supporters”.

Insertion of new section 5A.

3. After section 5 of the principal Act, the following new section shall be inserted, namely:—

Deposits.

"5A. (1) A candidate shall not be deemed to be duly nominated for election to the office of President unless he deposits or causes to be deposited a sum of rupees one thousand:

Provided that where a candidate has been nominated by more than one nomination paper, not more than one deposit shall be required of him.

(2) Any sum required to be deposited under sub-section (1) shall not be deemed to have been deposited under that sub-section unless at the time of the delivery of the nomination paper to the Returning Officer the candidate has either deposited or caused to be deposited that sum with the Returning Officer in cash or enclosed with the nomination paper a receipt showing that the said sum has been deposited by him or on his behalf in the Reserve Bank of India or in a Government Treasury".

Amendment of section 18.

4. In section 18 of the principal Act, in sub-section (1),—

(a) after sub-clause (iii) of clause (b) the following sub-clause shall be inserted, namely:—

"(iv) by reason that the nomination of any candidate has been wrongly accepted; or"

(b) in clause (c), the words 'or the nomination of the successful candidate or of any other candidate who has not withdrawn his candidature has been wrongly accepted' shall be omitted.

Insertion of new section 20 A.

5. In Part IV of the principal Act, under the heading 'Miscellaneous', the following section shall be inserted before existing section 21, namely:—

Return or forfeiture of candidate's deposit.

"20A. (1) The deposit made under section 5A shall either be returned to the person making it or his legal representative or be forfeited to the Central Government in accordance with the provisions of this section.

(2) Except in the cases hereafter mentioned in this section, the deposit shall be returned as soon as practicable after the result of the election is declared.

(3) If the candidate is not shown in the list of contesting candidates, or if he dies before the commencement of the poll, the deposit shall be returned as soon as practicable after the publication of the list or after his death, as the case may be.

(4) Subject to the provisions of sub-section (3) the deposit shall be forfeited to the Central Government if at an election where a poll has been taken, the candidate is not elected and the number of valid votes polled by him does not exceed one-tenth of the total number of valid votes polled by all the candidates."

### STATEMENT OF OBJECTS AND REASONS

In its report on the third general elections in India (1962), and later also in the report on the fourth general elections (1967), the Election Commission had drawn attention to the fact that the Presidential and Vice-Presidential Elections Act, 1952 contained no provision similar to sections 34 and 158 of the Representation of the People Act, 1951, requiring security deposits from candidates and providing for the forfeiture thereof in the event of their failing to secure a prescribed minimum electoral support. Under the law as it stands today, all that is required of a candidate for election to the high office of President is that he should find one member of the electoral college to propose and another to second his candidature. It is interesting to point out that while in the 1952 elections there were five candidates and in 1957 and 1962 there were three each, in 1967 there were as many as seventeen candidates contesting the election to the office of President.

It is quite clear that it was the absence of statutory restrictions of any sort in regard to security deposit or a minimum backing of the electorate that prompted a large number of persons to stand for the election in 1967, although they probably knew that they had no chance of being elected at all. In the first three elections, none of the losing candidates, except one (who got 15.33 per cent of the total votes polled in 1952), got any vote worth mentioning. In the last 1967 elections, out of seventeen candidates who contested, nine failed to get even one vote which meant that even their proposers did not give it to them, four candidates got the support of one or two electors and two candidates got the support of only three or four electors. The Election Commission expressed the opinion in its 1967 report "that the election to the high office of President should not be taken as a cheap and frivolous affairs in this fashion," and recommended that the Act should be amended requiring a deposit of Rs. 1,000 from every candidate to be forfeited in the event of his getting less than one-tenth of the valid votes polled at the election and also requiring the nomination paper of every candidate to be subscribed by ten electors as proposer, seconder and supporters of the nomination.

The Commission in its 1967 report also drew attention to another anomaly in the Act. Section 18 of the Act provides *inter alia* that if the Supreme Court is of the opinion that the nomination of any candidate has been wrongly rejected or the nomination of a contesting candidate has been wrongly accepted, the Supreme Court shall declare the election to be void. While it is logical and reasonable that the election should be set aside if a candidate has been wrongly kept out of the contest, the erroneous or improper acceptance of a nomination need not necessarily result in the avoidance of the election. It is only when such acceptance has materially affected the result of the election, that the election should be declared void. The Commission recommended that section 18(1) of the Act should in this respect be brought into line with section 100(1) of the Representation of the People Act, 1951. The Bill seeks to give effect to these recommendations of the Election Commission.

NEW DELHI;  
The 9th June, 1969.

M. P. BHARGAVA.

B. N. BANERJEE,  
Secretary.

